

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

WILLIE YATES,

Plaintiff,

V.

C/O DISRO,

Defendant.

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Civil No. **05-96-JLF**

ORDER

PROUD, Magistrate Judge:

A review of the record reveals that plaintiff filed a motion for summary judgment on October 14, 2005, before the Court's threshold review was even completed. **(Doc. 5)**. Federal Rule of Civil Procedure 55(a) dictates that a motion for summary judgment cannot be filed any sooner than 20 days after the case is commenced. Although plaintiff filed his complaint in February 2005, it is not deemed commenced until the case passes threshold review, in accordance with 28 U.S.C. § 1915A. Thus, the case was technically commenced July 12, 2006. **(Doc. 6)**. Moreover, as of this date the defendant has not yet waived service, been personally served with the complaint, or entered an appearance, so there is no one to respond to the motion for summary judgment.

IT IS THEREFORE ORDERED that plaintiff's motion for summary judgment **(Doc. 5)** is **STRICKEN** as premature.

IT IS SO ORDERED.

DATED: July 17, 2006

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE